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Attorney for Defendant,
Ernest Q. Muna

**IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HAROLD J. CRUZ and
ERNEST Q. MUNA,

Defendants.

MAGISTRATE CASE NO.: 05-00007

**DEFENDANT ERNEST Q. MUNA'S
PROPOSED VOIR DIRE QUESTIONS**

Defendant Ernest Q. Muna, through undersigned counsel, and hereby submits the following proposed voir dire questions.

A. BACKGROUND/CONFLICTS

1. Do you have any negative feelings toward people who hunt deer, pig or any other wildlife?
2. Would you require the Defendant to take the stand and testify in this case before you would vote for innocence rather than guilt?
3. Do you believe that it is fair to require the United States to approve everything and the defense to prove nothing?

Ernest Q. Muna
Prop. Voir Dire Questions

- 3
- 4 4. If you are selected as a juror in this case, will you presume the Defendant's innocence
5 throughout this proceeding?
- 6 5. Are you willing to hold the United States to its burden of proof, to recognize and apply the
7 presumption of innocence to the Defendant and require nothing of them in this case? Will
8 you do so if selected as a juror?
- 9 6. Do you have any relatives or close friends employed with the Guam Conservation Office,
10 Guam Fish and Wildlife, Guam Police Department, United States Attorney's Office, or the
11 United States Air Force? If so, please identify them.
- 12
- 13 7. Do you believe that if two or more persons have been charged with committing a crime, one
14 can be guilty and the other innocent?
- 15
- 16 8. Do you tend to believe that if a person is guilty of a criminal offense because he has been
17 arrested and charged by the United States Government?
- 18
- 19 9. Are you married? If "yes," what is the full name of your spouse and how long have you been
20 married?
- 21
- 22 10. Are you, your spouse or your children related to any of the witnesses, attorneys or the
23 defendant in this case?
- 24
- 25 11. Have you, your spouse or anyone you know, been involved in a matter with which any of the
26 attorneys have been associated?
- 27
- 28

3 12. Do you, your spouse or your children know, or are friends with any of the witnesses,
4 attorneys or the defendant in this case?

5
6 13. Are you currently employed? Where? What is your position?
7

8
9 14. Where else have you worked in the past?
10

11
12 15. Have you ever served on a government board or hold any governmental position?
13

14 16. If your spouse is employed or has been employed, who is (or was) his or her employer?
15

16
17 17. How many years of formal education have you had? When did you last attend school?
18

19 18. If you were formerly married, when and where did your former spouse work?
20

21
22 19. If you have children, please state their full names and ages, and occupations (if working).
23

24 20. Have you, or any member of your immediate family, ever studied law, practiced law, or been
25 employed by a lawyer or law firm? If "yes," please explain briefly.
26

27 21. Have you, or any members of your family, ever worked for the Department of Public Safety,
28 the FBI, or other Law Enforcement Agency or Corrections Facility? If so, when, how long
were you so employed, and what was your job title and description?

Ernest Q. Muna
Prop. Voir Dire Questions

3 22. Anyone have plans or desires of training to become a police officer or working for a law
4 enforcement agency?

5 23. Have you read or seen or heard anything about this case before coming to this Court?
6

7
8 24. What do you already know about the facts of this case?
9

10 25. Have you or any member of your immediate family ever been arrested and/or incarcerated
11 for any reason? If yes, please describe the circumstances surrounding your arrest and/or
12 incarceration.
13

14 26. Have you ever served on a trial jury? If "yes," were/was the case(s) criminal or civil? Please
15 state where and when you have so served?
16

17 27. Have you or any member of your immediate family ever been involved as a party or to appear
18 as a witness in any court proceeding (civil or criminal) or in any investigation by a federal
19 or state authority or by an official legislative body or agency? If "yes," please explain briefly.
20

21 **B. PRESUMPTION OF INNOCENCE/REASONABLE DOUBT**

22 28. The indictment is the means by which a person is accused of a crime in a criminal case. It
23 is only an accusation. It has no weight whatsoever as evidence. Is there any juror who does
24 not understand, or cannot accept this principle?
25

26 29. Do you understand that there has been no prior determination of guilt or innocence in this
27 case and that this trial is the first opportunity the defendant will have had to have the facts
28 heard and weighed?

3 30. Does anyone think that because a person has been arrested or charged by indictment for a
4 criminal offense that they are likely to be guilty of that offense?

5
6 31. Do any of you feel as you sit here now that it is impossible for a police officer to ever arrest
7 an innocent person?

8
9 32. Would anyone tend to believe a police officer or Government Agency more readily than any
10 other witness?

11
12 33. Do you believe that a Government Agency is less biased or more accurate than other
13 witnesses who may testify?

14
15 34. Do you understand that the testimony of a Government Agent is not entitled to any greater
16 weight than the testimony of any other witness, merely because he or she is an agent of the
17 Government?

18
19 35. Do you understand the that defendants do not have to produce any evidence in this case?

20
21
22 36. Under our legal system, an accused does not have to testify at trial. In fact, this court will
23 instruct you that if a defendant does not testify, you are not to hold this against the defendant
24 nor are you to infer anything by it. If a defendant were to decide that his testimony was not
25 needed in this case, do any of you feel that if a defendant did not testify, that such choice
26 would be an indication of his guilt?

27 37. What would your reaction be if the defendant did not testify in this case?

38. Do you understand that in a criminal proceeding the defendant is presumed innocent and the burden of proof is on the government and it must prove that Defendant is guilty beyond a reasonable doubt?

39. What does presumed innocence mean to you?

40. What does the term beyond a reasonable doubt mean to you?

41. Do you understand that proof beyond a reasonable doubt is proof beyond mere suspicion and must be established beyond a mere probability?

42. Do you understand and accept that the Defendant in this matter has no obligation to prove anything and does not have to provide any evidence that he is innocent and, if the government fails to prove his case beyond a reasonable doubt, you must find defendant innocent?

43. Could you convict a person for a crime that you think he probably committed but you are not sure?

44. Do you understand that a reasonable doubt can arise not only from the evidence produced, but also from a lack of evidence?

45. Do you feel that when the Federal Government arrests a person, that person must have committed a crime?

3
4 46. Do you believe that a person charged with a crime is innocent until the government proves
5 beyond a reasonable doubt that a person committed the crime?

6
7 47. Do you understand the government must put forth evidence that proves beyond a reasonable
8 doubt that Ernest Q. Muna is guilty of the crimes with which he is charged?

9
10
11 **C. OTHER**

12 51. Do you know of any reason not disclosed in your answers to these questions why you could
13 not be a fair and impartial juror in this case?

14
15
16 Dated this 14th day of June, 2005

17 Respectfully submitted,

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19
20 By:



MARK S. SMITH

Attorney for Defendant, *Ernest Q. Muna*